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California Franchise Tax Board*

IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

**DAVID GREGORY McCLURE,**

Debtor.

CASE NO. 12-52306 MEH-13

Chapter 13

**DAVID GREGORY McCLURE,**

Plaintiff

Adversary Case No. 17-05083

**v.**

**ANSWER OF DEFENDANT STATE OF  
CALIFORNIA FRANCHISE TAX  
BOARD TO COMPLAINT TO  
DETERMINE DISCHARGEABILITY OF  
STATE OF CALIFORNIA FRANCHISE  
TAX BOARD LIABILITY**

**STATE OF CALIFORNIA FRANCHISE TAX  
BOARD,**

Defendant.

Defendant California Franchise Tax Board (FTB) hereby answers the Complaint to Determine Dischargeability of State of California Franchise Tax Board Liability, filed October 17, 2017 by David Gregory McClure (Debtor). The Complaint fails to enumerate the paragraphs contained therein. As a result, FTB answers the allegations by identifying the allegations by paragraph, page and line and by admitting, denying and alleging as follows:

1. Answering paragraph 2 (p. 2, ll. 6 – 9), FTB admits the allegations contained therein. FTB consents to entry of final orders or judgment by the bankruptcy court.

1           2.     Answering paragraph 3 (p. 2, ll. 11 – 13), FTB admits that Debtor filed a Chapter 13  
2 Bankruptcy petition on March 26, 2012; FTB denies, generally and specifically, all remaining  
3 allegations.

4           3.     Answering paragraph 4 (p. 2, ll. 14 – 15), FTB admits the allegations contained  
5 therein.

6           4.     Answering paragraph 5, (p. 2, ll. 16 – 18), FTB denies, generally and specifically, the  
7 allegation “See (Claim #3-3)” as to the remaining allegations, FTB admits the allegations  
8 contained therein.

9           5.     Answering paragraph 6 (p. 2, ll. 19 – 22), FTB denies, generally and specifically, the  
10 allegations contained therein.

11          6.     Answering paragraph 7 (p. 2, ll. 23 – 24), FTB admits that on January 11, 2017, after  
12 plan completion, the Court entered the Order of Discharge; except as expressly admitted, FTB  
13 denies, generally and specifically, all remaining allegations contained therein.

14          7.     Answering paragraph 8 (p. 2, l. 26 – p. 3, l. 2), to the extent any claim of FTB was an  
15 allowed unsecured, nonpriority claim, FTB admits the Chapter 13 plan proposed to pay \$0 on that  
16 claim. To the extent the Complaint cites legal authority (e.g. “See 11 U.S.C. 1141(a)” and “See  
17 *Goldberg v. Ellett*, 254 F.3d at 1139-41”), the Complaint does not make factual assertions, and  
18 FTB is not required to answer; to the extent FTB must answer, FTB denies, generally and  
19 specifically, the allegations. Except as expressly admitted, FTB denies, generally and  
20 specifically, all remaining allegations contained therein.

21          8.     Answering paragraph 9 (p. 3, ll. 3 – 4), FTB denies, generally and specifically, the  
22 allegations contained therein.

23          9.     Answering paragraph 10 (p. 3, ll. 5 – 9), the Complaint does not make factual  
24 assertions, and FTB is not required to answer; to the extent FTB must answer, FTB denies,  
25 generally and specifically, the allegations.

26          10.    Answering paragraph 11 (p. 3, ll. 10 – 14), FTB denies, generally and specifically, the  
27 allegations contained therein.  
28

11. Answering paragraph 12 (p. 3, ll. 15 – 17), the Complaint does not make a factual assertion, and FTB is not required to answer; to the extent FTB must answer, FTB denies, generally and specifically, the allegations contained therein.

12. Answering paragraph 13 (p. 3, ll. 18 – 24), FTB denies, generally and specifically, each and every allegation contained therein.

**PRAYER**

WHEREFORE, FTB requests that the Court enter judgment in favor of FTB and against Debtor as follows:

A. Determine that all California personal income tax and interest on tax owed by Debtor to FTB for the 2003 through 2007 tax years was not discharged by the discharge issued in the related Chapter 13 case, Case No. 12-52306;

B. Award FTB its costs of suit; and

C. Grant FTB receive such other and further relief as this court deems just and proper.

Dated: November 8, 2017

Respectfully submitted,

XAVIER BECERRA  
Attorney General of California  
ANNE MICHELLE BURR  
Supervising Deputy Attorney General

/s/ Cara M. Porter  
CARA M. PORTER  
Deputy Attorney General  
Attorneys for Defendant  
California Franchise Tax Board

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**CERTIFICATE OF SERVICE**

Case Name: **McClure v. FTB** No. **12-52306 MEH-13**

I hereby certify that on November 8, 2017, I electronically filed the following documents with the Clerk of the Court by using the CM/ECF system:

**Answer of Defendant State of California Franchise Tax Board To Complaint  
To Determine Dischargeability of State of California Franchise Tax Board  
Liability**

Participants in the case who are registered CM/ECF users will be served by the CM/ECF system.

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service with postage thereon fully prepaid that same day in the ordinary course of business.

I further certify that on November 8, 2017, I have caused to be mailed in the Office of the Attorney General's internal mail system, the foregoing document(s) by First-Class Mail, postage prepaid, or have dispatched it to a third party commercial carrier for delivery within three (3) calendar days to the following non-CM/ECF participants:

Robert L. Goldstein, Esq.  
Eduardo Gonzalez, Esq.  
Law Offices of Robert L. Goldstein  
100 Bush Street, Suite 501  
San Francisco, CA 94104  
*Attorney for Debtor/Plaintiff*

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on November 8, 2017, at San Francisco, California.

Allyson M. McCain  
Declarant

/s/ Allyson M. McCain  
Signature

SF2017901668

Final - Answer to Complaint.docx